

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

**EXHIBIT**  
**3**

DEBORAH RASBY and	)	
DOUGLAS RASBY, husband	)	
and wife,	)	CASE NO. 8:15-cv226
	)	
Plaintiffs,	)	DEPOSITION TAKEN IN
	)	
vs.	)	BEHALF OF DEFENDANT
	)	
JAMES D. PILLEN, an	)	
individual,	)	
	)	
Defendant.	)	

VIDEOTAPED DEPOSITION OF: DEBORAH RASBY

DATE: April 12, 2017

TIME: 8:59 a.m.

PLACE: 260 Regency Parkway Drive, Suite 200,  
Omaha, Nebraska

1 A P P E A R A N C E S:

2 APPEARING FOR THE PLAINTIFFS:

3 Mr. Robert S. Sherrets  
4 Attorney at Law  
5 260 Regency Parkway Drive  
6 Suite 200  
7 Omaha, NE 68114  
8 law@sherrets.com

9 APPEARING FOR THE DEFENDANT:

10 Mr. Timothy R. Engler  
11 Ms. Sheila A. Bentzen  
12 Attorneys at Law  
13 3 Landmark Centre  
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15 Lincoln, NE 68508  
16 tengler@remboltlawfirm.com  
17 sbentzen@remboltlawfirm.com

18 ALSO PRESENT:

19 Kara Barnett; Douglas Rasby; and Roger  
20 Speakman, Videographer  
21  
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## I-N-D-E-X

WITNESS	Direct	Cross	Redirect	Recross
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DEBORAH RASBY	5	230	241	--
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EXHIBITS	Marked	Offered
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65. Email String RE: Question Concerning Possible Legal Services	50	--
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66. Plaintiffs' Response to Defendant's Requests for Admissions, First Set	217	--
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1 S-T-I-P-U-L-A-T-I-O-N-S

2 It is hereby stipulated and agreed by and  
3 between the parties that;

4 Notice of taking said deposition is  
5 waived; notice of delivery of said deposition  
6 is waived.

7 Presence of the witness during the  
8 transcription of the stenotype notes is waived.

9 All objections are reserved until the time  
10 of trial except as to form and foundation of  
11 the question.

12 The reading of Rule 6-330(8)(a) and  
13 6-330(8)(c) having been waived.

14 \* \* \*

15 THE VIDEOGRAPHER: We are on the  
16 video record. The date is April 12th, 2017.  
17 The time is 8:59. And this is the  
18 video-recorded deposition of Deborah --

19 THE WITNESS: Rasby.

20 THE VIDEOGRAPHER: Rasby. Thank  
21 you. I forgot to write it down.

22 We may swear in the witness now and  
23 proceed.

24

25

1 DEBORAH RASBY,

2 Of lawful age, being first duly cautioned and  
3 solemnly sworn as hereinafter certified, was  
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. ENGLER:

7 Q. Good morning.

8 A. Good morning.

9 Q. For the record, would you state your  
10 name and spell your last name?

11 A. Deborah Rasby, R-A-S-B-Y.

12 Q. Ms. Rasby, you're the plaintiff in this  
13 lawsuit that was filed against Jim Pillen;  
14 correct?

15 A. Yes.

16 Q. And we met before at another deposition.  
17 But I'll introduce myself again. My name is  
18 Tim Engler, and I'm representing Dr. Pillen.  
19 Fair enough?

20 A. Fair enough.

21 Q. I know you sat through Roger Wells'  
22 deposition. But have you been involved in a  
23 deposition before?

24 A. No.

25 Q. You may have noticed that in Wells'

1                   And then what did you do?

2       A.           I was serving on the board of directors  
3       for the Prairie Hills Girl Scout Council. And  
4       from that position, they asked me to serve as  
5       executive director. So I became the executive  
6       director of Prairie Hills Girl Scout Council  
7       serving northeast Nebraska.

8                   I did that for about a year and a half.  
9       And then I was offered a position back in  
10      accounting and finance with Sand Systems, which  
11      was a pork production operation.

12     Q.           Okay.

13     A.           And I worked for Sand Systems for  
14      approximately two years.

15                  And then Jim Pillen and I began  
16      Progressive Swine Technologies, officially  
17      starting in January of 1994, doing some  
18      preliminary work in late of '93.

19     Q.           All right. What type -- did you work  
20      full time at Sand Systems?

21     A.           Yes.

22     Q.           Where were you living at this time?

23     A.           Columbus.

24     Q.           When did you move to Columbus,  
25      approximately?

1 A. 85,000 is what I recall.

2 Q. And Pillen's salary was 110,000?

3 A. Correct.

4 Q. And he owned 90 percent of the company?

5 A. That's right.

6 Q. There were no other shareholders?

7 A. No.

8 Q. He was the only other officer?

9 A. That's right.

10 Q. And the only other director?

11 A. That's right.

12 Q. PST --

13 A. At that time.

14 Q. At the time.

15 A. Beginning.

16 Q. Okay. Thank you. Did -- at some point  
17 that did change?

18 A. I can't remember if we brought on  
19 another person as a director.

20 Q. Okay. Now, when -- when PST was formed,  
21 it was formed as a -- as a management company;  
22 correct?

23 A. Correct.

24 Q. And it was to provide services to  
25 customers; correct?

1 A. Correct.

2 Q. And the services it would provide would  
3 include such things as day-to-day accounting?

4 A. Correct.

5 Q. Bookkeeping?

6 A. Yes.

7 Q. Hiring and training employees?

8 A. Yes.

9 Q. Establishing labor practices, policies  
10 and guidelines?

11 A. Yes.

12 Q. Analysis of monthly financial and  
13 production results?

14 A. Yes.

15 Q. Daily cash management?

16 A. Yes.

17 Q. Monthly reports for lenders and  
18 insurers?

19 A. Yes.

20 Q. Maintaining contracts, bills, vouchers  
21 and other documentation?

22 A. Yes.

23 Q. All right. Anything else?

24 A. That was -- those were the -- the  
25 services we provided.



1 Q. Okay. And the customers that you had  
2 were primarily customers that were owned by  
3 people other than Pillen?

4 A. We began with one customer that was  
5 owned by someone other than Jim Pillen, yes.

6 Q. Do you recall Bartlett Foods?

7 A. That's right.

8 Q. Bartlett Foods became a customer in  
9 approximately 1995?

10 A. That's right.

11 Q. Okay. Is that Ken Morrison's company?

12 A. Yes.

13 Q. And then PC West?

14 A. That was -- construction was started or  
15 finished in 1994, I believe, for PC West.

16 Q. And Pillen owned 50 percent of it and  
17 the other 50 percent was owned by --

18 A. Mike Wilke.

19 Q. Mike Wilke. Correct. Inland Foods was  
20 formed in 1996. Does that ring a bell?

21 A. That sounds approximately right.

22 Q. And Jim was a minority shareholder in  
23 that entity?

24 A. That's right.

25 Q. Okay. Furnas Country Farms, 1993?

1 A. Yes.

2 Q. And Jim was a minority shareholder in  
3 that operation?

4 A. That's right.

5 Q. Who was the owner involved there, the  
6 outside customer?

7 A. That was Chuck Sand. I believe there  
8 were some other owners also.

9 Q. Okay. And then Pheasant Ridge was  
10 another customer; correct?

11 A. That was Jim Pillen 50 percent and Mike  
12 Wilke 50 percent.

13 Q. And so the idea was PST would have  
14 management responsibility for these customers,  
15 provide the services that we just described?

16 A. That's right.

17 Q. And charge a fee?

18 A. That's right.

19 MR. SHERRETS: Objection. Form.  
20 You've got to slow down, give me an opportunity  
21 to make my objections if necessary.

22 THE WITNESS: All right.

23 MR. SHERRETS: And, also, makes  
24 sure you allow him to finish his question.

25 Sorry.

1 MR. ENGLER: No, no, fine. Your  
2 objection was form?

3 MR. SHERRETS: Yes, sir.

4 MR. ENGLER: Okay. Thank you.

5 Q. (BY MR. ENGLER) Oh, and -- and then PST  
6 would charge a management fee to the customers;  
7 correct?

8 A. That's correct.

9 Q. And that was a 5 percent fee?

10 A. No.

11 Q. Okay. What was the fee based upon?

12 A. The fee was originally based on an  
13 amount per weanling pig.

14 Q. All right.

15 A. Those first operations were weanling pig  
16 operations.

17 Q. Eventually did it go to a percentage for  
18 the customers?

19 A. It eventually went to a cent and a  
20 quarter per pound sold.

21 Q. All right. These customers that PST  
22 provided its services for were primarily in the  
23 swine industry; correct?

24 A. Correct.

25 Q. And there's several aspects of these

1 farms. You can have a breeding operation;  
2 correct?

3 A. Correct.

4 Q. You could have a -- I'm going to get  
5 this wrong -- farrowing operation?

6 A. Correct.

7 Q. That's when we get a little bigger;  
8 correct?

9 A. Correct.

10 Q. And then -- that's from birth to certain  
11 size. And then you have a finishing?

12 A. Correct.

13 Q. And that's when you get them to the  
14 point where they're sold for slaughter;  
15 correct?

16 A. That's right.

17 Q. And the customers that you were serving  
18 had various -- some had all three of those,  
19 while others would have one or more; is that  
20 right?

21 A. That's right.

22 Q. Initially were you the only one in the  
23 accounting department?

24 A. Initially, yes.

25 Q. And you reported to Pillen?

1 A. That's right.

2 Q. All right. Did the PST accounting staff  
3 grow over time?

4 A. Yes.

5 Q. And just so we kind of put an end date  
6 on this, I believe you resigned from PST in --  
7 you announced your resignation in May of 2011  
8 and, actually, last day was, like, July 18th of  
9 2011; is that correct?

10 A. I retired and gave Jim Pillen a  
11 retirement letter --

12 Q. Right.

13 A. -- in May of 2011. And my last day was  
14 July 13th, 2011.

15 Q. Okay. So we've got 17 years there that  
16 you're involved with PST?

17 A. Uh-huh, yes.

18 Q. Okay. Were you always responsible for  
19 the accounting side of things during that  
20 period of time?

21 A. Yes.

22 Q. And did the number of staff grow during  
23 that 17-year period?

24 A. Yes.

25 Q. At the time you left, how large was it?

1 A. I don't know.

2 Q. Okay. If that were, in fact, the case,  
3 that would be on average about \$400,000 a year?

4 MR. SHERRETS: Form.

5 Q. (BY MR. ENGLER) Correct?

6 A. I don't know exactly.

7 Q. Now, there's a number of entities that  
8 were involved in the -- in front of you, you've  
9 got the original exhibits from Roger Wells'  
10 deposition. And rather than remark those, I'm  
11 going to try and refer to those if possible.

12 A. All right.

13 Q. So if you could turn to Exhibit No. 7,  
14 which is going --

15 MR. SHERRETS: Looks like this.

16 Q. (BY MR. ENGLER) Yeah, I can help you  
17 find it if you want.

18 There you go.

19 A. There it is.

20 Q. All right. I want to talk to you about  
21 these various entities in terms of who they  
22 were and what they were.

23 You see in the center there -- let me  
24 start with, is this a document that you  
25 prepared? Do you recognize it?

1 A. I did not prepare it. But someone on  
2 our staff prepared it.

3 Q. It was provided to us from McGrath  
4 North. And we know that because it has the  
5 Bates number on the bottom right-hand corner of  
6 MNMK 281.

7 A. Yes.

8 Q. That tells us that they were the ones  
9 that actually produced it.

10 And it's my understanding from Roger  
11 Wells that he provided this -- you provided  
12 this to him in, I think, the summer of 2011 as  
13 background information?

14 A. Yes.

15 Q. So at the time, I assume that you would  
16 agree with me that the information contained on  
17 here is accurate and fair?

18 A. Yes.

19 Q. Okay. And you -- did you participate in  
20 reviewing this before it was finalized?

21 A. Yes.

22 Q. Okay. Now, we have five -- I guess six  
23 asterisks that show, first of all, the one in  
24 the middle is PST, and that's an indication  
25 that you had ownership interest in that;

1 correct?

2 A. Yes.

3 Q. And then we have Double D. And there's  
4 an asterisk there; correct?

5 A. Yes.

6 Q. Do I understand correctly you have a 5  
7 percent interest in Double D?

8 A. Yes.

9 Q. Now, Double D was formed in 2002;  
10 correct?

11 A. Yes.

12 Q. You didn't actually have to pay for that  
13 5 percent interest, did you?

14 A. No. We were able to handle this in a  
15 way that allowed us not to put cash in.

16 Q. Okay. Double D is in the business of,  
17 you know, the swine industry; correct?

18 A. Yes.

19 Q. And it also was a customer of PST;  
20 correct?

21 A. Yes.

22 Q. Should have probably started  
23 chronologically. But it doesn't matter. Let's  
24 go to PST Milling, which was 20 -- 2001 when it  
25 was formed; correct?



1 A. Yes.

2 Q. And this was a milling operation that  
3 produced feed for the swine?

4 A. Yes.

5 Q. And you had a --

6 A. 10 percent.

7 Q. -- 10 percent interest in that as well?

8 Again, you didn't actually pay cash for  
9 that 10 percent interest, did you?

10 A. Again, we didn't have to. We found  
11 other ways --

12 Q. Okay. All right.

13 A. -- to handle that.

14 Q. Northern Nance was formed in 1996?

15 A. Yes.

16 Q. Another part of the swine operation;  
17 correct?

18 A. Actually, there may -- I -- Northern  
19 Plains was -- was constructed first.

20 Q. Oh, okay.

21 A. Then Northern Nance.

22 Q. So maybe that asterisk, maybe it's the  
23 date of 1998 rather than '96?

24 A. It might be.

25 Q. Okay. So Northern Plains farm was built

1 in 1997.

2 A. Yes.

3 Q. And you have a 10 percent interest in  
4 that?

5 A. Yes.

6 Q. And then following was Northern Nance?

7 A. Yes.

8 Q. Okay. PST Gene Center was formed in  
9 1998; correct?

10 A. Yes.

11 Q. And PST Gene Center is a semen  
12 production facility?

13 A. A genetics facility.

14 Q. Okay. Genetics.

15 A. For stud facility.

16 Q. And you had 10 percent interest in that?

17 A. Yes.

18 Q. As to all of these, you didn't have to  
19 pay any cash for that; correct?

20 A. I had to put my personal assets as  
21 guaranties. And I did have money ready to  
22 invest in Northern Plains. But our lenders  
23 accepted the value that we provided as general  
24 contractors so that we were not -- it was not  
25 necessary for us to put that cash in. But I

1 did have that cash ready.

2 Q. Did you ever sign a personal guaranty  
3 for any of these entities?

4 A. Yes.

5 Q. When?

6 A. When Northern Plains was begun, I signed  
7 a personal guaranty and guarantied my personal  
8 assets, our savings and our home.

9 Q. Was that -- how long was that personal  
10 guaranty in effect?

11 A. I believe that it continued on through  
12 my ownership of that business.

13 Q. Okay. Do you know what the level of  
14 debt was that you were guarantying?

15 A. My portion of debt was that -- my 10  
16 percent portion of debt was very close to the  
17 assets that I guarantied.

18 Q. So your personal guaranty was limited to  
19 the 10 percent that -- of the ownership  
20 interest that you had?

21 A. I believe my personal guaranty was 125  
22 percent of my share.

23 Q. All right. Any other personal  
24 guaranties that you had to provide in  
25 connection with your ownership of any of these

1 entities?

2 A. Yes. Each one of them had personal  
3 guaranties.

4 Q. Truth in lending institutions?

5 A. Yes.

6 Q. Do you -- did you save copies of those?

7 A. I have the Northern Plains and Northern  
8 Nance.

9 I can't recall having the other ones.

10 Q. Do you think you still have copies?

11 A. I don't -- I don't think I do. I  
12 believe that we kept them all at the PST  
13 office.

14 Q. All right. Now, the other entities,  
15 there are a number of other entities shown on  
16 Exhibit 7.

17 A. Yes.

18 Q. Do you contend in this lawsuit that you  
19 were entitled to any ownership interest in  
20 those entities?

21 A. I believe I was.

22 Q. Okay. Based on what?

23 A. The Corporate Opportunities Act that I  
24 discovered later through Mr. Sherrets.

25 Q. What is your understanding as to why

1 you -- strike that.

2 Do you believe you personally were  
3 entitled to ownership interest in these  
4 entities, you, Deborah Rasby?

5 A. I believe that I was.

6 Q. So when an entity was formed, at the  
7 time the entity was formed, you believe you  
8 should have been given -- been granted an  
9 opportunity personally to invest in that -- in  
10 that entity?

11 A. I be --

12 MR. SHERRETS: Object to the  
13 form.

14 Q. (BY MR. ENGLER) Go ahead.

15 A. I believe so, yes.

16 Q. So, for example, GGP, all right?

17 A. Yes.

18 Q. That's a customer of PST, was formed in  
19 1997; correct?

20 A. Yes.

21 Q. One-third was owned by Jim Pillen.  
22 One-third was owned by Bill Gottsch?

23 A. Bob Gottsch and --

24 Q. Bob Gottsch and his brother --

25 A. -- Brett Gottsch.

1 Q. Bob and Brett. And your position in  
2 this lawsuit is that you should have been given  
3 some ownership interest in that as well?

4 A. I believe so, yes.

5 Q. And what's that based on?

6 A. It was a similar business to other  
7 businesses that I was involved in and had  
8 ownership in.

9 Q. That corporate opportunity should have  
10 been presented to you in 1997; is that correct?

11 A. Yes.

12 MR. SHERRETS: Object to the  
13 form. Calls for a legal conclusion.

14 Q. (BY MR. ENGLER) I just want to know when  
15 you thought it should have been presented to  
16 you?

17 MR. SHERRETS: Oh, when she  
18 thought and what the law says is different  
19 so --

20 MR. ENGLER: Fair enough.

21 Q. (BY MR. ENGLER) You may answer.

22 A. I -- after learning about corporate  
23 opportunities, I thought that I should have  
24 been offered ownership in that.

25 Q. During the entire time that you were

1 associated with PST, did you ever ask for  
2 ownership interest in those entities?

3 A. I can't remember.

4 Q. Did you ever discuss it with Dr. Pillen  
5 that, hey, why aren't I an owner in some of  
6 these other entities?

7 A. I did not state it like that.

8 Q. Did you ever make -- make any demands  
9 upon him that said, hey, I need -- I need a  
10 percentage interest in these entities?

11 A. No.

12 Q. How much of an ownership interest do you  
13 feel you were entitled to?

14 A. I would think the same level that I had  
15 in Northern Plains, Northern Nance, PST.

16 Q. Why not 5 percent like you did in Double  
17 D?

18 A. I wasn't aware at the time that Double D  
19 was formed that corporate opportunities should  
20 be the same level in each of the businesses.

21 It would have provided a balance if I  
22 had had ownership in all of the businesses.

23 Q. And just so I have it clear, you're  
24 not -- strike that.

25 Do you believe you were denied an

1 opportunity to have ownership interest in all  
2 of the entities listed on Exhibit 7?

3 A. All of them, yes. And I'm looking at  
4 Bartlett Foods, which I found out later Jim  
5 purchased an interest in. At the time Jim  
6 Pillen had no interest in Bartlett Foods. And  
7 so I was not entitled at that time to have an  
8 interest in Bartlett Foods.

9 Q. So it's your position that if Jim Pillen  
10 acquired an interest in an entity, you should  
11 have been given your share of that?

12 A. Yes.

13 Q. But if it was an entity that was owned  
14 by some other customer, then you didn't -- you  
15 weren't entitled to it?

16 A. That's right.

17 Q. Okay. And the opportunity was triggered  
18 when Jim Pillen obtained the ownership  
19 interest; right?

20 A. The opportunity should have been  
21 triggered then.

22 Q. All right. Let's go through these  
23 entities. I want to find out -- let me -- as  
24 the accountant for PST being involved in  
25 accounting, you would have had knowledge of



1 these entities; correct?

2 A. That's correct.

3 Q. And you knew they existed from the  
4 moment they were formed; correct?

5 A. That's correct.

6 Q. And so the services you -- you would  
7 have been provided would have been throughout  
8 the entire tenure in which PST operated?

9 A. That's right.

10 Q. Okay. Bartlett Foods was originally a  
11 partnership and then became a limited liability  
12 company in -- do you recall that, converted  
13 that after initially --

14 A. Bart -- excuse me. Bartlett Foods --

15 Q. Yeah.

16 A. -- was owned 100 percent by Ken  
17 Morrison.

18 Q. Okay. Do you know when Pillen purchased  
19 Morrison's interest?

20 A. I believe he purchased the interest in  
21 2012.

22 Q. Okay. And Bartlett Foods was engaged in  
23 the business of breeding, growing and marketing  
24 swine and swine products?

25 A. That's correct.

1 Q. All right. Double D, also a -- a sow  
2 facility; correct?

3 A. That's correct.

4 Q. And that was formed in 2002?

5 A. Correct.

6 Q. There were a number of owners in that.  
7 Jim Pillen had 65 percent?

8 A. That's correct.

9 Q. Cleave Pillen 10 percent?

10 A. Yes.

11 Q. Tom Pillen 10 percent?

12 A. Yes.

13 Q. Deb Rasby 5 percent?

14 A. Yes.

15 Q. And Brett Bonwell, B-O-N-W-E-L-L, 5  
16 percent?

17 A. Yes. And Dan O'Connor, 5 percent.

18 Q. Your interest in that was -- was  
19 purchased when you -- when you sold in June of  
20 2012; correct?

21 A. Yes.

22 Q. GGP Partnership, we talked a little bit  
23 about that. But that was the Pillen, Bob  
24 Gottsch and Brett Gottsch; correct?

25 A. That's correct.

1 Q. Jim was a minority shareholder; right?

2 A. That's correct.

3 Q. Would he have had the ability to force  
4 the other partners to give you an ownership  
5 interest in that entity if they chose not to?

6 A. I believe he could have owned that  
7 through PST.

8 Q. Okay. GGP Partnership was engaged in  
9 breeding, growing and marketing of swine and  
10 swine products also?

11 A. That's right.

12 Q. These were things that PST was not  
13 doing; right?

14 A. No.

15 Q. PST was providing management but not the  
16 actual growing operations?

17 A. That's correct.

18 Q. So it wasn't a similar business to PST,  
19 was it?

20 A. No.

21 Q. Is that correct?

22 A. Correct.

23 Q. Thank you. I had double negative in  
24 there.

25 Okay. Inland Foods, that was also

1 primarily a Morrison Enterprises-owned company?

2 A. That's correct.

3 Q. And that's Ken Morrison?

4 A. That's correct.

5 Q. Also involved in breeding, growing and  
6 marketing swine and swine products; correct?

7 A. Yes.

8 Q. So not something that PST was doing;  
9 correct?

10 A. Correct.

11 Q. Northern Nance, we talked about that.  
12 That was an entity that Jim Pillen owned 69  
13 percent?

14 A. Eventually.

15 Q. Okay. Then eventually you had 10  
16 percent?

17 A. Yes. Originally Jim Pillen had 70  
18 percent. I had 10 percent. Dan O'Connor had  
19 20 percent.

20 Later I believe PST had 1 percent.

21 Q. How did it come about that PST got the 1  
22 percent, do you know?

23 A. When the -- when it was changed from a  
24 general partnership to a limited liability  
25 corporation, LLC.

1 Q. Northern Nance and Northern Plains are  
2 kind of a combined operation that provide a  
3 farrow-to-finish --

4 A. That's correct.

5 Q. -- operation; correct?

6 And your 10 percent was purchased by  
7 Pillen in June of 2012?

8 A. Correct.

9 Q. Okay. So we talked about Northern  
10 Plains and Northern Nance.

11 O'Neill Finishers, 2003, do you know who  
12 was the owner there?

13 A. O'Neill Finishers was Jim Pillen and  
14 Dr. Les Griess.

15 Q. Okay. And Dr. Griess was a veterinarian  
16 also?

17 A. That's right.

18 Q. He worked with PST?

19 A. He was an employee of PST Vet Services.

20 Q. Okay. And he retired before you did;  
21 correct?

22 A. He did not retire. He resigned.

23 Q. He resigned. Okay.

24 And Dr. Pillen bought his interest?

25 A. Yes.

1 Q. Do you know how that -- the value of  
2 Dr. Griess' interest was arrived at as part of  
3 the purchase?

4 A. I wasn't involved in their negotiation.

5 Q. Fair enough.

6 PC West was one of the first ones that  
7 was formed. And that was a 50/50 owner between  
8 Pillen and Wilke?

9 A. That's right.

10 Q. And Jim perched Wilke's interest in PC  
11 West in the mid 1990s?

12 A. Yes.

13 Q. PST Gene Center, this would be the boar  
14 farm; correct?

15 A. Yes.

16 Q. And this is one in which Pillen had 79  
17 percent, Rasby 10 percent and Griess 10  
18 percent?

19 A. What were those percentages again?

20 Q. 79, 10, 10 and then PST 1?

21 A. Yes.

22 Q. Okay. PST Milling was a feed milling  
23 company which produces, mixes and delivery of  
24 feed to some of the production entities; is  
25 that correct?

1 A. Yes.

2 Q. It was formed in 2001?

3 A. Yes.

4 Q. Jim Pillen had 70 percent. You had 10  
5 percent. Brett Bonwell had 20 percent?

6 A. Yes.

7 Q. And then we talked about PST. But you  
8 had 10 percent ownership interest in that. And  
9 that was sold in June of 2012, your 10 percent?

10 A. Yes.

11 Q. And do you know the current status of  
12 PST?

13 A. I believe that the PST name no longer is  
14 in operation.

15 Q. Do you know if the entity still exists?

16 A. I believe so, yes.

17 Q. What's that based upon?

18 A. Information that I have gained from the  
19 website, from people in the community that I  
20 know still work there.

21 Q. Do you know if the legal entity still  
22 exists, PST --

23 A. PST?

24 Q. -- as an entity, a corporation?

25 A. I do not know. I do know the name has

1 Q. Okay. In this lawsuit, are you asking  
2 to have your interest in those entities  
3 returned to you?

4 A. No.

5 Q. You're asking for the contract to be set  
6 aside, aren't you, or rescinded?

7 MR. SHERRETS: Object to the  
8 form.

9 Go ahead.

10 A. I am asking for a fair value from the  
11 businesses that I sold.

12 Q. (BY MR. ENGLER) What entitles you, to  
13 your knowledge, to receive what you consider to  
14 be fair value for these interests?

15 A. Fair and right business dealings.

16 Q. Did Dr. Pillen in your mind have an  
17 obligation to buy your shares back from you?

18 A. No.

19 Q. Did you have an obligation to sell them  
20 back to him when he left?

21 A. No.

22 Q. You received \$2 million plus repayment  
23 of a \$350,000 loan as part of the contract that  
24 was actually finalized; correct?

25 A. Correct.



1 was 2,350,000?

2 A. Yes.

3 Q. And you thought that you should have  
4 received at least 3.5 million; correct?

5 A. Yes. Not including the loan.

6 Q. Okay. Not including the loan. Thank  
7 you.

8 Okay. You said you had options. All  
9 right?

10 A. Yes.

11 Q. So let's talk about those options. We  
12 talked about the fact you could have held on as  
13 a minority shareholder; right?

14 A. Yes.

15 Q. You could have brought a lawsuit  
16 alleging minority shareholder suppression or  
17 oppression?

18 A. Yes.

19 Q. You hired a law firm to assist you in  
20 that process?

21 A. Yes.

22 Q. You hired a very good law firm; right?

23 A. Yes.

24 Q. Did you feel that you got very good  
25 service from them, good advice?

1 A. Yes.

2 Q. Were you always satisfied with their  
3 advice and service?

4 A. Yes.

5 Q. Was there ever a time where you felt  
6 like they weren't representing your interests  
7 as diligently as they could?

8 A. No.

9 Q. I think you saw that Roger Wells has  
10 handled billions of dollars worth of  
11 transactions involving mergers, acquisitions  
12 and sales of stock; right?

13 A. Yes.

14 Q. You consider him to be pretty  
15 experienced; right?

16 A. Yes.

17 Q. Pretty good at what he does; right?

18 A. Yes.

19 Q. And he was going to be your lawyer;  
20 correct?

21 A. Yes.

22 Q. Was your husband actively involved in  
23 the discussions? Maybe not with Dr. Pillen  
24 directly but did the two of you talk about it?

25 A. Yes.

1 Q. Did you weigh the pros and cons of the  
2 various options that you had?

3 A. Yes.

4 Q. Consider the strengths and weaknesses of  
5 doing one versus the other?

6 A. Yes.

7 Q. Agonized over it, I'm sure?

8 A. Yes.

9 Q. Tried to figure out what was going to be  
10 the best result for you; right?

11 A. Yes.

12 Q. If you thought about litigation, you  
13 were going to take into account the strengths  
14 of the case?

15 A. Yes.

16 Q. The weaknesses of the case?

17 A. Yes.

18 Q. The likelihood of a favorable result?

19 A. Yes.

20 Q. And the likelihood of an unfavorable  
21 result?

22 A. Yes.

23 Q. The cost associated with it?

24 A. Yes.

25 Q. Ultimately what could you recover? You

1 took that all into consideration; right?

2 A. Yes.

3 Q. And you were getting advice from very  
4 good lawyers as to what those options were;  
5 right?

6 A. Yes.

7 Q. And ultimately you chose to sign the  
8 contract and accept what had been offered  
9 rather than proceed with litigation, didn't  
10 you?

11 MR. SHERRETS: Objection. Form.

12 A. I felt it was the only option, really, I  
13 had.

14 Q. (BY MR. ENGLER) When you considered the  
15 strengths and weaknesses and the other  
16 alternatives, it was the one that made the most  
17 sense; right?

18 MR. SHERRETS: Objection. Form.

19 A. It didn't make sense. But I had to do  
20 it.

21 Q. (BY MR. ENGLER) Okay. You did it  
22 voluntarily?

23 MR. SHERRETS: Form.

24 A. Not really.

25 Q. (BY MR. ENGLER) Did someone force you to

1 correct?

2 A. That's right.

3 Q. It's a very important part of the  
4 operation?

5 A. Yes.

6 Q. And if that is breached somehow, you  
7 could have a serious outbreak of disease that  
8 would wipe out an entire production facility  
9 theoretically; right?

10 A. Theoretically.

11 Q. Now, there's a -- there's another  
12 related company called Imperial Foods. You're  
13 familiar with Imperial Foods; right?

14 A. Yes.

15 Q. And that was an entity in which Jim  
16 Pillen owned 100 percent; correct?

17 A. Yes.

18 Q. And Imperial Foods had a relationship  
19 with Double D; correct?

20 A. Yes.

21 Q. It was -- and at some point, there was a  
22 decision made that Imperial Foods and Double D  
23 would have a set price for buying the weanling  
24 pigs; right?

25 A. There had been a set price.

1 Q. Okay. And at times, that resulted in  
2 Imperial Foods buying weanling pigs for below  
3 market value; right?

4 A. Not originally. When we had a set  
5 price, it was based on a market value  
6 calculation.

7 Q. Right. And that did change, though, at  
8 some point; right?

9 A. That changed when Jim Pillen wanted the  
10 business to become a virtual partnership.

11 Q. And when did that occur, the virtual  
12 partnership?

13 A. 2009.

14 Q. And you were aware of it in 2009?

15 A. Yes.

16 Q. Did you believe the virtual partnership  
17 impacted you financially, in a negative way?

18 A. Yes.

19 Q. Okay. And you knew that in 2009?

20 A. Yes.

21 Q. Did you challenge Jim on that?

22 A. At that point, I -- I wouldn't say I  
23 challenged him.

24 I think -- let's see. I think I  
25 expressed my concern over the virtual

1 partnership and what it was going to do to  
2 Double D and to his brothers.

3 Q. And when did you express that concern,  
4 did you?

5 A. I think I had said something in 2009.

6 Q. How did Jim respond, if at all?

7 A. At -- at that point -- at that point, I  
8 can't remember.

9 Q. At some later point, was there -- the  
10 discussion come up again?

11 A. Yes.

12 Q. When was that?

13 A. In 2011.

14 Q. All right.

15 A. After the 2010 results. And I was -- I  
16 was concerned about the economics.

17 Q. Okay. So 2010 fiscal year ends.

18 A. Uh-huh.

19 Q. And you are evaluating the financial  
20 status of Imperial Foods and Double D?

21 A. Yes.

22 Q. Because you have access to that  
23 information, obviously?

24 A. Yes.

25 Q. And you were concerned about the impact

1 the virtual partnership was having on Double D?

2 A. Yes.

3 Q. And did you raise a concern with Jim?

4 A. Yes.

5 Q. And that would have been early 2011?

6 A. Yes.

7 Q. Did you raise a concern with anyone else  
8 other than Jim?

9 A. Raise a concern? No. I wanted to  
10 discuss it with Jim. And I wanted to discuss  
11 the health issues that were causing problems.

12 Q. Health issues with regard to the?

13 A. Imperial Foods.

14 Q. And not somebody's personal health  
15 issues?

16 A. No.

17 Q. All right. Do you remember that  
18 conversation with Jim?

19 A. Yes. We didn't get to the health  
20 issues.

21 Q. Okay. Where was the conversation?

22 A. In our conference room.

23 Q. Who else was present?

24 A. Kara Barnett and Sarah Pillen.

25 Q. Did you -- can you give me any more of a



1 first page is an e-mail from you. It says Doug  
2 Rasby. But do you recall that being your --

3 A. I used Doug Rasby's e-mail and -- but it  
4 was from me.

5 Q. I was confused by that initially. It's  
6 an e-mail to -- from you to Roger Wells,  
7 providing some background information. It's  
8 dated May 22nd, 2011; correct?

9 A. Yes.

10 Q. And it's my understanding that prior to  
11 sending this e-mail, you called Roger Wells;  
12 right?

13 A. Yes.

14 Q. And had a conversation with him about --  
15 about trying to set up a meeting with him;  
16 right?

17 A. Yes.

18 Q. He thought you had gotten his name from  
19 Gene Arnold; is that correct?

20 A. I believe so, yes.

21 Q. You'd never worked with Roger before?

22 A. No.

23 Q. Never worked with McGrath North before?

24 A. No.

25 Q. Had you worked with Gene Arnold before?

1 A. Yes.

2 Q. Gene is with Frankel --

3 A. Zacharia.

4 Q. -- Zacharia.

5 A. You got that.

6 Q. Practiced.

7 And after the conversation with Roger  
8 Wells where you introduce yourself and tell him  
9 what you want, you send him this information in  
10 Exhibit No. 3; correct?

11 A. Yes.

12 Q. Okay. I'm assuming you prepared this  
13 entire document; right?

14 A. Yes.

15 Q. Okay. And page 2 of Exhibit 3, you're  
16 providing Mr. Wells kind of your objective;  
17 would that be fair?

18 A. Yes.

19 Q. Okay. And at that time, you had  
20 identified three options. One is selling of  
21 all of your interests. Two is partially  
22 selling your interests. And three, maintaining  
23 your interests. Do you see that?

24 A. Let's see, are we on the same --

25 Q. Yeah. My --

1 A. "My intent is to establish a fair and  
2 equitable agreement with the majority owner,  
3 Jim Pillen."

4 Q. "Whether my ownerships were sold" --

5 A. Or maintained.

6 Q. -- "or just sold or maintained." So --

7 A. Yes.

8 Q. -- three different options?

9 A. That's right.

10 Q. On this next page of the exhibit,  
11 there's kind of a chart and some information  
12 about the companies in which are owned by you  
13 and other people. And we've gone through  
14 those.

15 But there's one thing I want to ask you  
16 about. And it's the -- it's the asterisk that  
17 appears by Imperial Foods. Can you see that?  
18 Do you see Imperial Foods, LLC? There's a  
19 little asterisk there?

20 A. Yes.

21 Q. And then at the bottom is the statement,  
22 "I've experienced unilateral decisions  
23 implemented by Jim to change rates that had  
24 been financially detrimental to me." Do you  
25 see that?

1 A. Uh-huh, yes.

2 Q. And that's consistent with what we  
3 talked about earlier; right?

4 A. Yes.

5 Q. Okay. Then drop down to the second to  
6 the last paragraph.

7 A. Yes.

8 Q. The second to the last sentence says,  
9 "Jim did, however, unilaterally implement a  
10 change in management fees which was beneficial  
11 to him and detrimental to me." What is that  
12 referring to, do you know?

13 A. I -- I can't remember for sure. I think  
14 having to do with Imperial Foods.

15 Q. Okay.

16 A. And the virtual partnership.

17 Q. That's what I'm just trying to clarify.  
18 And if it is, that's fine.

19 A. I think.

20 Q. Okay. And then the last paragraph,  
21 first sentence, "As I have mentioned, Jim has  
22 made intimidating comments that the profits  
23 will be moved to the farms." What intimidating  
24 comments did he make to you?

25 A. As I recall, he said that PST would be

1 going away. Later he said he was going to blow  
2 up PST.

3 He said things -- things are going to  
4 change.

5 Q. And -- but I'm talking about in May of  
6 2011.

7 A. May of 2011.

8 Q. I know later we have some e-mails  
9 about -- or some discussions about blowing up  
10 PST. But up until this point in time, I want  
11 to know what Jim Pillen comments have been  
12 made, if you recall. If you don't, that's  
13 fine.

14 A. He had just started making a comment or  
15 two about the -- the profits of PST would be  
16 going away.

17 Q. And do you remember when those  
18 intimidating comments were made?

19 A. I don't recall.

20 Q. Was that kind of the reason why you  
21 reached out to Roger Wells is you were  
22 concerned about that?

23 A. Yes.

24 Q. Okay. Now, your retirement letter is --  
25 I call it a letter. But your retirement

1 the profitability of PST going away, I don't  
2 know, that might have been a -- viewed as a  
3 lie.

4 Q. Did he ever say something to you during  
5 negotiations that you found out later just  
6 wasn't true?

7 A. Well, he said he was going to blow up  
8 PST. And I think the reality was, he just  
9 changed the name to Pillen Family Farms.

10 Q. I --

11 A. So I would say that was a lie.

12 Q. That was a statement about what was  
13 going to occur in the future; correct?

14 A. Yes.

15 Q. All right. Did you believe that he was  
16 going to blow up PST?

17 A. I -- I believed -- I believed what he  
18 said. I knew he was going to do something that  
19 would be advantageous for him. And as hostile  
20 as he was towards me, I -- I knew it wasn't  
21 going to be good for me. So I believed that.

22 Q. So you believed he was going to do  
23 something?

24 A. That he said he was going to do, yes.

25 Q. Did he, in fact, not do what he said he

1 A. Again, as long as the best interests of  
2 the owners were taken into account --

3 Q. (BY MR. ENGLER) Right.

4 A. -- and the owners would not be harmed,  
5 then business decisions need to be made.

6 Q. And if those decisions do harm the  
7 minority shareholder or the minority owner, the  
8 minority owner has the right to proceed with a  
9 lawsuit; correct?

10 MR. SHERRETS: Are you talking  
11 hypothetically or Deb Rasby?

12 MR. ENGLER: Deb Rasby.

13 MR. SHERRETS: Object to the  
14 form.

15 A. If I had been financially able to  
16 sustain a lawsuit, yes.

17 Q. (BY MR. ENGLER) The idea of a lawsuit  
18 against Jim Pillen was on the table from the  
19 moment you met with Roger Wells through June  
20 29th, 2012, wasn't it?

21 A. That was a possibility to be considered.

22 Q. Along with the possibility of not  
23 selling?

24 A. That was a possibility to be considered,  
25 yes.

1 would you agree that this is your e-mail?

2 A. Yes.

3 Q. Okay. And in the -- right before the  
4 best regards, it says, "I will continue to work  
5 in the direction of a sale if at all possible.  
6 I agree with you that this is -- would be the  
7 best path." Do you see that?

8 A. Yes.

9 Q. All right. So at this point in time, at  
10 least you're considering several options;  
11 correct?

12 A. Yes.

13 Q. And -- but at this point, you've  
14 identified as probably the best possible path  
15 is the sale of the --

16 A. Yes.

17 Q. -- of the interest?

18 A. Uh-huh.

19 Q. Okay. That continued to be kind of the  
20 preferred choice as you moved throughout the  
21 negotiation, didn't it?

22 A. Yes.

23 Q. Okay.

24 A. I -- I will qualify that. If -- if the  
25 businesses could have operated as they had



1 background as a way in which you could maybe  
2 maximize your -- the possibility of a  
3 successful negotiation?

4 A. I obviously needed legal advice. I -- I  
5 wanted to negotiate in a positive way with Jim  
6 Pillen.

7 My ultimate goal was to come out of it  
8 with a good relationship, with something fair  
9 and right that -- that would keep us on good  
10 terms.

11 So I was using legal advice just to kind  
12 of help me navigate the waters and what -- what  
13 my rights were and just what the best options  
14 were.

15 MR. ENGLER: I'm thinking about  
16 taking a lunch break.

17 MR. RASBY: I heard his stomach  
18 growling. Did you?

19 THE VIDEOGRAPHER: I'm hearing  
20 everybody's stomach growling.

21 THE WITNESS: And you've been  
22 snacking.

23 THE VIDEOGRAPHER: Oh, at a  
24 break, yeah.

25 MR. ENGLER: Okay. Let's go off

1 e-mail string. So the bottom half of the  
2 e-mail is a -- it goes on to the next page, is  
3 an e-mail from you to Roger Wells, March 15th,  
4 2012, at 1:34.

5 A. Uh-huh.

6 Q. And the very top of the e-mail is his  
7 response at 5:22. But that's been redacted.  
8 So we don't get to see what his response is.

9 A. Okay.

10 Q. So we're going to focus only on your  
11 e-mail to him as primarily an update and a  
12 question.

13 A. Okay.

14 Q. Okay. And he updates you about some  
15 information on the tax distributions. And then  
16 you're referencing the dissolution of PST.

17 A. Uh-huh.

18 Q. And then you talk about the regent's  
19 race.

20 A. Yes.

21 Q. And the fact that he's running for --  
22 candidate for the Board of Regents; correct?

23 A. Yes.

24 Q. And you wanted to make Roger Wells aware  
25 of that?

1 A. Yes.

2 Q. And then your opinion was whether you  
3 should go forward and send an e-mail to Jim  
4 about threatening to go public with some  
5 accusations if he -- if this doesn't go well.  
6 Would that be fair?

7 A. Let's see.

8 MR. SHERRETS: I'm going to  
9 object to the form. The document speaks for  
10 itself.

11 A. If there were litigation, information  
12 could come out in e-mails that would not show  
13 him in a good light. So I would think that he  
14 would want to avoid litigation if at all  
15 possible.

16 Q. (BY MR. ENGLER) And you were going to  
17 communicate with him to that effect in order to  
18 gain leverage in the negotiation, weren't you?

19 MR. SHERRETS: Object to the  
20 form.

21 A. I was trying to -- trying to communicate  
22 and encourage him to do the right thing, which  
23 were words on his wall, by the way, they  
24 were -- as part of his business principles.  
25 And every action that I took, I reminded him of

1 those business principles.

2 And one of them was treat others the way  
3 you would want to be treated. And it comes  
4 from Jesus. And it incorporates all the law in  
5 that one sentence. All the law is contained in  
6 that one sentence.

7 Q. (BY MR. ENGLER) Golden rule; right?

8 A. So -- it's the golden rule. And it  
9 comes from Jesus Christ.

10 So I would come back and play on that  
11 one note that I had all the time.

12 And in this, there were communications  
13 that I kept, e-mails that I kept of his that  
14 would come out in a legal proceeding. If I  
15 were in his shoes, I wouldn't want those to  
16 come to light.

17 Q. All right. Couple things. One, you  
18 were asking Roger for his opinion on whether  
19 you should communicate to Jim about  
20 communications that would be damaging to his  
21 image?

22 A. Yes.

23 Q. And those are those e-mails you're  
24 referencing?

25 A. Yes.

1 Q. And then you prepared a draft letter to  
2 Jim where --

3 A. Uh-huh.

4 Q. -- you were going to incorporate that  
5 concept; correct?

6 A. Yes.

7 Q. Did you ever send an e-mail to Jim to  
8 that effect?

9 A. That I don't know.

10 Q. Okay. You make reference that there  
11 were actions on his part that would have  
12 crossed the line to criminal if they went  
13 further.

14 A. I thought they might.

15 Q. What are you referring to?

16 A. It had to do with Imperial Foods and  
17 their water supply.

18 Q. Okay.

19 A. And actually was more, like, lack of  
20 action on Jim Pillen's part when I had heard  
21 that there was -- there was salmonella in the  
22 pigs' water supply in Imperial Foods. And we  
23 had experienced a very high death loss there.  
24 And I -- I expected him to act with urgency to  
25 correct that situation.

1 I was not getting the impression that  
2 that was happening.

3 So -- I'm not a lawyer. But I think if  
4 a water supply is contaminated, particularly  
5 with salmonella, to me it's an urgency. And I  
6 don't know what came of that.

7 Q. Anything else in terms of actions that  
8 were crossing the line?

9 A. That was -- that was really what I was  
10 thinking about.

11 Q. Okay. And you were trying to get him to  
12 do the right thing?

13 A. Yes.

14 Q. And you were going to make sure he  
15 understood that some of these things could be  
16 exposed and be damaging to him in his regent's  
17 race?

18 MR. SHERRETS: Form.

19 Q. (BY MR. ENGLER) Isn't that right?

20 A. That's right. Exposure of things that  
21 don't indicate integrity would not -- would not  
22 be good for a regent for the University of  
23 Nebraska.

24 Q. Right. And the main reason you were  
25 going to do that is to gain an advantage in

1 A. Yeah.

2 Q. And that was pretty much a take-it-or-  
3 leave-it offer; right?

4 A. Yes.

5 Q. Did you ever come to understand that the  
6 basis for Pillen's offer came from calculations  
7 done by Steve Weiss?

8 A. Yes.

9 Q. And did you come to understand that  
10 Weiss used the same approach that he did when  
11 Pillen bought out the interests of the  
12 Gottsches?

13 A. Yes.

14 Q. And the same approach that he used when  
15 Pillen bought out Ken Morrison?

16 A. I don't know about that.

17 Q. Okay. You were offered -- extended an  
18 opportunity to meet with Steve Weiss to talk  
19 about his calculations?

20 A. Yes.

21 Q. But you didn't do that, did you?

22 A. There didn't seem to be a point. He's  
23 not a certified valuation professional.

24 Q. So you didn't --

25 A. So I did not respect his calculations.

1 A. I am not sure.

2 Q. Okay. I think we can figure that out in  
3 a minute.

4 One thing about the e-mail, though, it  
5 makes reference, at the bottom, it says, "We  
6 appreciate all the talent you both have and the  
7 dedicated work that you have done on this  
8 case." Do you see that?

9 A. Yes.

10 Q. Were you satisfied with what Roger and  
11 Bill were doing on your behalf?

12 A. I think they were doing all that could  
13 be done in this particular situation. It was a  
14 difficult situation. There didn't seem to be  
15 any good avenues for us to take --

16 Q. But you --

17 A. -- after examining them. An attorney  
18 can only do so much.

19 Q. But you felt that you were in the best  
20 of legal hands, didn't you?

21 A. I did think that we were in good legal  
22 hands.

23 Q. Okay. The reason I don't think you sent  
24 the letter is, if you take a look at Exhibit  
25 34, which is an e-mail from Roger Wells, also



1 Roger Wells dated May 13th, 2012. Have you  
2 ever seen this before?

3 A. Yes.

4 Q. Okay. And it's a cover e-mail which is  
5 attaching summary valuations prepared for  
6 Northern Nance and Northern Plains combined and  
7 for Double D Family Farms based on Steve Weiss'  
8 experience and methodology. Okay?

9 A. Yes.

10 Q. And he goes on to say, "Mr. Weiss was  
11 retained by the parties to assist in  
12 establishing a fair -- I'm sorry, in  
13 establishing a value for interests purchased by  
14 Jim Pillen and two unrelated entities." Do you  
15 see that?

16 A. Yes.

17 Q. Okay. Did you understand that  
18 Mr. Pillen was using the same methodology he  
19 had used with two other minority shareholders?

20 A. Yes.

21 Q. Do you think that's unconscionable?

22 A. I think it's wrong.

23 Q. Do you think it's unfair?

24 A. I think it's unfair.

25 Q. Actually, Jim Pillen was purchasing the

1 controlling interest from both companies. Do  
2 you know if there's a -- there's a difference  
3 when you buy a controlling interest, do you pay  
4 a premium for that?

5 A. I'm not a valuation expert.

6 Q. He says, "The same methodology was  
7 applied to determine if -- the values described  
8 in the attachment." Do you have any reason to  
9 doubt that?

10 A. Can you say that again? Where do you --  
11 where are reading?

12 Q. I said -- I'm sorry. It's the fourth  
13 line at the end. "The same methodology was  
14 applied to determine the values described in  
15 the attachment." Do you have any reason to  
16 doubt that?

17 A. The same methodology -- I'm not finding  
18 that. Where are you seeing it?

19 Q. It's on the -- it's in the fourth line  
20 at the end.

21 A. Oh, on the first paragraph?

22 Q. Yes. I'm sorry.

23 A. Yes.

24 Q. And then he concludes with -- not  
25 concludes but he offers to make Steve Weiss

1 available to you --

2 A. Yes.

3 Q. -- to go through those, and you chose  
4 not to; right?

5 A. Yes.

6 Q. Okay. Go ahead and take a look at  
7 Exhibit No. 38.

8 A. All right.

9 Q. Okay.

10 A. Oh, wait. There's more. Oh, please --  
11 let's see.

12 Q. The disclosures, disclaimers.

13 A. Okay. Okay.

14 Q. Okay. So it this e-mail string with  
15 some -- May 21st, approximately, starting off  
16 with Roger Wells and Tim Moll.

17 And then the one later in the day 4-18.  
18 And it's talking about making Steve Weiss  
19 available.

20 Then Tim Moll sends an e-mail to Roger,  
21 this is primarily on the second page, with the  
22 second to the last paragraph saying the  
23 deadline of June 1 and indicating that if the  
24 terms are not acceptable, Jim will no longer  
25 consider a purchase of your interest.

1     doing?

2                     MR. RASBY:   I'm better.

3                     MR. SHERRETS:   Need a break?

4                     THE WITNESS:   I'm okay.

5                     MR. ENGLER:   Okay.

6                     MS. BENTZEN:   I'm fine.

7                     MR. ENGLER:   Okay.

8                     THE VIDEOGRAPHER:   Hopefully we  
9     can stop in 10 minutes or so to start a new  
10    media file.

11                    MR. ENGLER:   Sounds good.   Stop  
12    me whenever you want.   Okay?

13    Q.            (BY MR. ENGLER) Okay.   Take a look at  
14    Exhibit No. 39.

15    A.            Okay.

16    Q.            Exhibit 39 is an e-mail from you to  
17    Roger Wells and Bill Hargens on May 23rd, 2012.  
18    And if I'm reading this correctly, you're  
19    laying out what you consider to be your options  
20    at that point; right?

21    A.            Yes.

22    Q.            Did you consider any other options other  
23    than litigation in those three?

24    A.            At that point, those were -- those were  
25    the options we thought we had.

1 Q. Okay.

2 A. So that was May 31st.

3 Q. Right. Okay. Now, the next two  
4 exhibits you can take a look at are --

5 A. And we had been given till June 1. So  
6 if you can put yourself in that position, it is  
7 a crunch.

8 Q. Right.

9 A. Just a horrendous squeeze crunch.

10 Q. And it looks to me like, if you look at  
11 Exhibits 43 and 44, Roger Wells had prepared  
12 for you both a letter accepting -- I said --  
13 I'm sorry, 42 and 43. Okay. Put together a  
14 draft letter rejecting the offer and a draft  
15 e-mail accepting the offer.

16 A. Yes.

17 Q. Okay. And ultimately on June 1, you  
18 decided to go ahead and accept; correct?

19 Go to Exhibit 44, and that will help  
20 you.

21 A. Okay. Okay.

22 Q. Okay. Now, after accepting the June 1  
23 proposal, between June 1 and June 29, we have  
24 several things that go on. Okay? I'm trying  
25 to summarize those, if I can.

1           No. 1, there's an issue as to whether  
2   the \$350,000 loan is included or not; correct?

3   A.       Correct.

4   Q.       And there had to go back and forth  
5   between the lawyers and various people about  
6   which direction that was going to go. You'd  
7   agree with me that ultimately the 350 was  
8   included as part of the proposal; correct? The  
9   repayment of the 350?

10   A.       Two million three fifty included the  
11   repayment of the loan.

12   Q.       And there was an issue as to whether it  
13   was the -- included originally or not; right?

14   A.       Right.

15   Q.       Okay. But ultimately that was resolved?

16   A.       Right.

17   Q.       Okay. Another consideration during this  
18   time is whether you want to see if you can  
19   trigger any of the buy/sell agreements by  
20   finding a third party to make an offer?

21   A.       Yes.

22   Q.       Okay. And you involved your son down in  
23   Kansas City, but ultimately you chose not to go  
24   that path because you -- it didn't feel right?

25   A.       That's right.

1 A. Correct.

2 Q. And then you also go on to talk about  
3 that 4.5 million dollar, that -- your son Greg  
4 and your brother-in-law Scott.

5 A. Yes.

6 Q. I did say your son-in-law. And I meant  
7 to say earlier your brother-in-law.

8 A. Okay.

9 Q. So that's the correction there.

10 A. Okay.

11 Q. Okay. Now, my question is, as to the  
12 letter, did you, in fact, drop the letter off?

13 A. Yes.

14 Q. Okay. And so that would have been the  
15 next day; is that right?

16 A. I think so.

17 Q. Okay. Did you ever get a response from  
18 either Sarah, Brock or --

19 A. No.

20 Q. -- his wife?

21 Okay. You talk about the various  
22 options that you have; correct?

23 A. Yes.

24 Q. And at this point, you're asking for a  
25 sale price of 4.5; is that correct?

1 acceptable?

2 A. On the June 13th e-mail to Roger Wells  
3 from me --

4 Q. Uh-huh.

5 A. -- I said, "From what I see, if I have a  
6 buyer who wants to hold this investment for  
7 appreciation, I can sell my interest to him."

8 So we're still holding out that little  
9 ray of hope that we could possibly find someone  
10 that might want to.

11 I think our son was trying to think of  
12 someone. Our brother-in-law was trying to  
13 think of someone. So we were just kind of  
14 holding that out there as a -- as a very small  
15 hope but a hope, nevertheless.

16 Q. And so --

17 A. And then what was your question that I  
18 didn't -- just now didn't answer?

19 Q. Oh, you kind of did.

20 It looks to me like as of 5:09, Wells  
21 has prepared a draft letter to Tim Moll where  
22 you are rejecting Pillen's offer?

23 A. He -- Roger Wells drafted that letter.  
24 I don't think it was sent.

25 Q. No, it wasn't.



1 A. No.

2 Q. But at least you were considering it at  
3 that point; correct?

4 A. I -- we were considering everything  
5 still.

6 Q. Okay.

7 A. Just with a great deal of anxiety and  
8 fear but just still hoping, hoping, hoping that  
9 we could find some way out of this corner that  
10 we were backed into.

11 And that was a possibility. But it --  
12 it didn't happen. And the possibility of a  
13 buyer didn't happen, obviously.

14 Q. So ultimately you told Wells to  
15 communicate to Moll that you were going to  
16 proceed and go forward with it?

17 A. We had -- we had no choice.

18 Q. But you sent Jim another letter on June  
19 14th?

20 A. Probably trying to appeal again.

21 Q. And trying to ask him to consider  
22 another appraisal value; is that fair?

23 A. That's fair.

24 Q. Does that kind of refresh your  
25 recollection that at least as of June 14th, you

1 A. Very conservative.

2 Q. Now, after you decide to go forward,  
3 there are drafts of the Unit Purchase Agreement  
4 exchanged between the lawyers; right?

5 A. Yes.

6 Q. And you're involved in reviewing those;  
7 correct?

8 A. Yes.

9 Q. And approving whatever changes are made;  
10 correct?

11 A. Yes.

12 Q. At Roger Wells' deposition, I think we  
13 pointed out and he agreed that the original  
14 Unit Purchase Agreement as drafted contained no  
15 release for you, nor for Pillen?

16 A. Okay.

17 Q. And then at his suggestion, a release of  
18 you only was put in the Unit Purchase Agreement  
19 draft. Do you agree with that?

20 A. I don't recall that. Those were to me  
21 legalities that I -- I didn't have a very clear  
22 understanding of. It wasn't very important to  
23 me at that time.

24 Q. Was it at some point, though, you  
25 understood that there would be a mutual

1 release, where you would release Pillen and  
2 Pillen would release you?

3 A. Yes.

4 Q. And did you review that release?

5 A. Yes.

6 Q. Did you consider it to be ambiguous in  
7 any way?

8 A. No.

9 Q. Did you consider it to be a full and  
10 complete release on both sides?

11 A. I believe so.

12 Q. Okay. One quick thing, on Exhibit 54 --

13 A. Okay.

14 Q. Okay. This is a -- an e-mail from you  
15 to Roger Wells, June 28th. It's talking about  
16 the changes to the contract, closing tomorrow.  
17 And then makes reference to, "Of course, time  
18 is of the essence for the transfer of funds."  
19 What did you mean by that?

20 A. I'm a financial person. When dollars  
21 and cents are involved, time is always of the  
22 essence.

23 Q. Okay. There's some changes that need to  
24 be made on the allocation of the purchase  
25 price. And I think they may have transposed

1     feel? You just feel desperate. You feel like  
2     there's -- you have to do it.

3             So I guess with that in mind, I thought  
4     this is -- this is it, this is all I can do, I  
5     have to sign it and he's -- he can -- he's the  
6     majority, I guess he can do anything that he  
7     wants to do.

8     Q.       Of course, he wasn't literally holding  
9     your head under water?

10    A.       Not literally.

11    Q.       Sure.

12    A.       But certainly it felt like that in a  
13    financial way.

14    Q.       And if you'd gotten \$4-1/2 million, you  
15    wouldn't have felt that way?

16    A.       No, I would have felt that we had  
17    negotiated, that --

18    Q.       Okay.

19    A.       -- he had listened, that he was at least  
20    trying to be fair in it.

21    Q.       How about if he'd have paid you \$4  
22    million?

23    A.       At that point in time, again, if -- I  
24    had used a lot of low -- low values. And if he  
25    would have done something to show in character

1 that he was willing to somewhat play fair, to  
2 listen and to come somewhere middle ground or  
3 move a little more off of his -- his firm  
4 stance of these old values, at least I would  
5 have seen some kind of good character shown  
6 through there, some essence of -- of fair play.

7 Q. If he'd have paid \$3 million, would that  
8 have been adequate?

9 A. I --

10 MR. SHERRETS: Object to the  
11 form.

12 A. I think my final -- I can't remember  
13 what my final value was.

14 I felt my -- the lowest value that I  
15 gave was giving so much away, how could you not  
16 do that.

17 If I had been in his shoes and a  
18 business partner of 20 years had said, okay,  
19 take -- I won't even incorporate a value for  
20 PST or the Gene Center or the mill and I'll  
21 look at the very most conservative value and  
22 even less than that and I'll accept this as  
23 some kind of a negotiated offer, I would have  
24 accepted that.

25 And, in fact, when I thought that he

1                   And then he didn't pay me that. He paid  
2   me the 2,350,000, handed me a check.

3   Q.           Okay.

4   A.           And I was flustered. And I left without  
5   the signed document.

6   Q.           So he signed the one that was 2.3  
7   million?

8   A.           No. He must have signed -- he signed  
9   the other one. He paid me 2.35. But he signed  
10   the other one.

11               And then that one I got by e-mail, the  
12   one with the higher figure. And I thought, oh,  
13   my gosh, he had a change of heart. And I was  
14   thrilled. And I sent him an e-mail thanking  
15   him and saying, Jim, I knew you were a guy of  
16   good character, you did it, thank you, thank  
17   you.

18               And I just expressed my gratitude toward  
19   him. So --

20   Q.           And --

21   A.           -- I thought he had a change of heart.  
22   And that is -- that was my response.

23               So in answer to your questions, would  
24   you have been satisfied with whatever? I think  
25   that's the answer to the question was my e-mail

1 response to him saying, thank you, I am  
2 grateful.

3 Q. You found out the next day, though, that  
4 he hadn't?

5 A. Then he sent an e-mail back right away  
6 saying I did not have a change of heart.

7 Q. Right. Do you remember Roger Wells  
8 asking you how it came about that there was a  
9 contract?

10 A. Yes.

11 Q. What did you tell him?

12 A. I explained to him that I took both  
13 contracts in and that I had tried to have him  
14 see that this was a very fair offer and that --  
15 that low number but it was still higher than  
16 the 2 million was fair. But I told him he  
17 didn't -- he didn't do it.

18 Q. Now, you continued to attempt to get Jim  
19 Pillen to pay you additional compensation,  
20 didn't you?

21 A. I continued to -- I continued to  
22 correspond with him or communicate with him.

23 Q. Sure.

24 A. Because it just felt wrong.

25 Q. At some point in time, you told him that

1     you were going to retract your support of him  
2     as a regent if he didn't pay you another 1.2  
3     million?

4     A.         I -- I prepared a letter with -- that  
5     outlined the actions that he took in this -- in  
6     this whole situation. And I gave those to him.

7               And I gave him two options, either do  
8     some action that shows some kind of good  
9     character, some kind of ethical behavior, some  
10    kind of fair -- fair character, something that  
11    reflects the words that you have on your wall  
12    that -- treat others the way you want to be  
13    treated; if you do that, I'll accept that as  
14    fair; but if you don't, I'm going to speak out  
15    and say what you did, I'm not going to be quiet  
16    about the actions you took because the  
17    University of Nebraska -- the University of  
18    Nebraska deserves people that are ethical, that  
19    have a respect for other people, that have a  
20    high character. They should -- they should be  
21    on the highest plain of human behavior.

22              And what I experienced with Jim Pillen  
23    was the opposite. And he even said to me,  
24    ethics have nothing to do with this, ethics  
25    have nothing to do with this.



1 A. Yes.

2 Q. -- such as a subchapter S corporation or  
3 a limited liability company --

4 A. Yes.

5 Q. -- there's no tax paid at the entity  
6 level; correct?

7 A. That's right.

8 Q. The income is imputed to the individual  
9 shareholders or members, depending upon their  
10 percentage interest?

11 A. That's right.

12 Q. There is not any obligation for the  
13 entity to necessarily pay that money out, but  
14 the income is still -- they pay it to the  
15 shareholder or the member, but the income is  
16 still imputed to them; correct?

17 A. We had a verbal agreement that we would  
18 pay tax distributions to the partners in  
19 profitable years.

20 Q. Right. And what that verbal agreement  
21 was that to the extent there was profit, you  
22 would get, at a minimum, a distribution that  
23 would cover the taxes that you would have to  
24 pay on your share of the profit?

25 A. That's right.

1 Q. Okay. In years where there was a loss,  
2 in other words, no profit due to a variety of  
3 factors, I suspect, but that same loss was  
4 imputed to you as a taxpayer; correct?

5 A. Yes.

6 Q. And so you would get probably a K-1;  
7 right?

8 A. Yes.

9 Q. And if the K-1 showed a loss, you could  
10 choose to use that loss to offset other income  
11 unrelated to the business; correct?

12 A. Correct.

13 Q. Which would lower your tax obligation;  
14 right?

15 A. Correct.

16 Q. So, for example, if you had a tax loss,  
17 you could use it to offset your husband's  
18 income from work; right?

19 A. Right.

20 Q. Or gains on stocks; correct?

21 A. Correct.

22 Q. You don't have to use that loss, though,  
23 do you?

24 A. No. You can carry it forward.

25 Q. Sure. Did you -- during the course of

1 the time you were affiliated with these  
2 entities, did you, in fact, have some years  
3 where there was tax losses?

4 A. There were some.

5 Q. Did you use those tax losses to offset  
6 other income as part of your taxable year?

7 A. Yes.

8 Q. To the extent that you are using the tax  
9 losses, would that also reduce your basis in  
10 the entity, your basis in the -- either the  
11 stock or the membership unit?

12 A. Ask that again. Can I -- can you repeat  
13 that question?

14 Q. I'll try. I'm not sure this -- this is  
15 getting on the borderline of what I know about  
16 taxes as well.

17 If you own stock in a corporation --

18 A. Uh-huh.

19 Q. -- you will have a tax basis in that  
20 stock; right?

21 A. Yes.

22 Q. And when that stock is sold, the tax  
23 basis will determine what the gain is?

24 A. Right.

25 Q. So in this particular case, when you

1 sold your interests in those entities, that was  
2 a taxable transaction?

3 A. Yes.

4 Q. And that resulted in a gain to you?

5 A. Yes.

6 Q. And the gain was based upon what your  
7 basis was?

8 A. Yes.

9 Q. Was any of that basis affected by the  
10 tax losses that had occurred?

11 A. There were -- there were some.

12 Q. Had you not used those tax losses,  
13 though, you would not have had to worry about  
14 that reduced basis; correct?

15 A. I would still have to worry about it.  
16 Taxes are always a concern.

17 Q. Right. Now, on a go-forward basis, what  
18 you were concerned with is that there may have  
19 been income imputed to you for which you would  
20 not receive any distribution to pay taxes?

21 A. Yes.

22 Q. Okay. That would depend on  
23 profitability?

24 A. Yes.

25 Q. That would depend upon management, in

1 I was desperate to get out from the -- the no  
2 distribution and the -- the tax consequence  
3 squeeze.

4 I was desperate at the age that I was at  
5 and, with my career being blown up, to get out  
6 of the -- just get out from under Jim Pillen.

7 Q. And the last thing I'll ask about is  
8 Mr. Engler was asking if you voluntarily signed  
9 the purchase agreement. And I think Mr. Engler  
10 characterized it as he didn't physically take  
11 your hand and force your signature on it?

12 A. Uh-huh.

13 Q. But do you believe that you voluntarily  
14 agreed to the sale of your shares?

15 A. No, I don't believe I voluntarily  
16 agreed. I felt like there was a gun to my head  
17 financially.

18 Q. And earlier --

19 A. I had no options.

20 Q. Earlier I believe you testified to  
21 feeling that someone was holding your head  
22 under water?

23 A. Yes.

24 MR. SHERRETS: I have nothing  
25 further.